

ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

HEAD STRIKE WITH AN IMPACT WEAPON – 066-05

Division	Date	Duty-On(X) Off()	Uniform-Yes(X) No()
77 th Street	07/27/2005		

Involved Officer(s)	Length of Service
Officer C	9 years, 8 months

Reason for Police Contact

Plain-clothes officers observed a possibly armed man inside a vehicle and requested a marked unit to respond. When the responding unit arrived, additional officers exited the vehicle and drew their service pistols to conduct a high-risk stop. When the subject did not comply, one officer decided to physically contact him. In the course of making contact, officer's radio struck the subject on the head.

Subject(s)	Deceased ()	Wounded ()	Non-Hit ()
Subject 1: Male, 19 years.			

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on July 18, 2006.

Incident Summary

On the evening of July 27, 2005, Officers A and B were working in plainclothes capacity assigned to the 77th Street Area Criminal Surveillance Team, attempting to locate a homicide suspect. Officers A and B were in their unmarked van parked in a parking lot directly across the street from the location. While observing the surveillance location, Officers A and B noticed a group of males, whom they believed to be gang members.

Officers A and B observed Subject 1 “throwing their gang signs”¹ at another male and then saw Subject 1 run into an apartment building. Subject 1 then returned, continued to throw gang signs, and was holding his right front pocket area.

Subject 1 then ran into the parking lot where Officers A and B were parked, holding his right front pants pocket as he did so. Subject 1 then began speaking with some other males in the parking lot. The group then walked over toward the surveillance vehicle, and Officer B observed Subject 1 continue to hold his waistband area.

Officers A and B heard a portion of the group’s conversation, which consisted of Subject 1 stating that he had the “ammo.” This and Subject 1’s prior actions led Officers A and B to believe that Subject 1 was armed.

The group then walked back toward the apartments where the officers had first observed them. Subject 1 ran inside an apartment once again, then exited and got into a vehicle. The vehicle left the scene and officers lost sight of it. Approximately five minutes later, the vehicle re-appeared. Officer B broadcast that they had a possible man with a gun inside a vehicle and requested a marked unit to respond.

Officers C and D responded to the request and stopped the vehicle. Officers C and D drew their service pistols, exited the patrol car, and ordered four occupants to kneeling positions.

Three of the four subjects complied with officers’ orders and got on their knees. Subject 1 stated that he had a cramp in his leg and was unable to get on his knees. Subject 1 also asked, “Why are you stopping us?”

Officer C began to approach Subject 1 because Officer C believed that Subject 1 looked like he was going to run. As he approached, Officer C was holding his pistol in one hand and his radio in the other. Officer C holstered his pistol and at the same time took hold of Subject 1. Officer C believed that the butt of his radio made contact with the back left side of Subject 1’s head, possibly while Subject 1 was already on his way down to the ground. However, Subject 1 subsequently reported that he was hit on the head by the officer’s gun.

Officer C then handcuffed searched three of the subjects. The fourth subject was patted down searched, but was not handcuffed because the officers did not have enough pairs of handcuffs.

Officer C then searched the vehicle for weapon, but did not find one. All four subjects were identified and checked for wants and warrants, with negative results. The four subjects were then released.

¹ The term “throwing gang signs” describes the use of hand gestures to identify a particular gang.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

A. Tactics

The BOPC found Officers A and B's tactics to warrant formal training.

The BOPC found Officers C and D's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC found Officers C and D's drawing of a firearm to be in policy.

C. Use of Force

The BOPC found Officer C's use of force to be out of policy, warranting administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that, as a result of their observations, Officers A and B believed that Subject 1 was armed. Officer B broadcast that there was a possible man with a gun in a vehicle and requested a patrol unit to respond. The BOPC would have preferred that Officers A and B's broadcast would have included a definitive description of the vehicle, the number of subjects, the subjects' descriptions, and had indicated which subject the officers believed was armed with a gun.

The BOPC noted that Officers C and D did not know that the plainclothes officers were working on that day and what type of vehicle they were in. The BOPC would have preferred that the officers would have advised the area watch commander of their mission and made patrol personnel aware that they were deployed.

Officers C and D should have discussed a tactical plan. The BOPC would have preferred that Officers C and D had slowed their response and coordinated a tactical plan that would have included further direction from the plainclothes officers and the response of additional uniformed personnel to detain the four subjects.

The BOPC noted both Officers C and D gave commands to the subjects. The BOPC would have preferred that Officers C and D had not deviated from their contact and cover responsibilities, which diminished their abilities to control the four subjects. Only one officer should have given commands to the subject to avoid miscommunication.

The BOPC noted Officer C ordered the subjects to their knees. The BOPC noted positioning the individuals to their knees gave them an opportunity to resist the officers' commands.

The BOPC noted Subject 1 stood up and stated he had a cramp in his leg and could not get on his knees. Officer C approached to handcuff him and motioned with his left hand, which held the radio, for Subject 1 to get down. As Officer C approached, Officer C holstered his service pistol and continued to motion with his left hand. As Officer C came within arm's length of Subject 1, Officer C indicated that Officer C accidentally struck Subject 1 on the back left side of the head with his radio. The BOPC would have preferred that Officer C did not approach Subject 1 with his service pistol in the right hand and radio in the left hand, which limited Officer C's tactical options.

Finally, the BOPC noted that Officers A and B left the location of the incident prior to the uniformed officers completing their investigation. The BOPC would have preferred that they would have remained present throughout the investigation and had not left until it was tactically advisable to do so.

The BOPC found Officers A and B's tactics to warrant formal training.

The BOPC found Officers C and D's tactics to warrant administrative disapproval.

B. Drawing/Exhibiting/Holstering

The BOPC noted that Officers C and D exited their police vehicle and drew their service pistols. The BOPC determined that Officers C and D had sufficient information to believe the situation might escalate to the point where deadly force may become necessary. As such, the BOPC found Officers C and D's drawing to be in policy.

C. Use of Force

The BOPC noted that Officer C began to approach Subject 1 because it looked as if Subject 1 was going to run. Officer C approached Subject 1 to handcuff him and motioned with his left hand, which held the radio, for Subject 1 to get down. According to Officer C, as he came within arm's length of Subject 1, Officer C accidentally struck Subject 1 on the back left side of the head with Officer C's radio.

Officers C and D failed to inform the first responding supervisor of the type of force that was used on Subject 1. It was not until Officers C and D returned to the police station that Officer C informed a supervisor that he had inadvertently struck Subject 1 on the head with his radio.

The investigation revealed that the actions and statements of Officers C and D are problematic and place into question the fact pattern of the incident. Officers C and D stated that they understood the Department's Categorical Use of Force policy and reporting procedures and appear to have consciously decided not to immediately report the incident.

Due to its inability to substantiate the incident as described by the officers' statements, the BOPC was unable to conclude that the head strike was inadvertent. Rather, the BOPC found that the preponderance of the evidence showed that Officer C intentionally struck Subject 1 on the head. As such, the BOPC found Officer C's use of force to be out of policy, warranting administrative disapproval.